Agenda Date: 2/5/03
Agenda Item: 8A

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF NEW SOURCE REVIEW	)	ORDER
	)	NON-DOCKETED MATTER

BY THE BOARD:

On December 31, 2002, the U.S. Environmental Protection Agency (USEPA) issued final rules changing the Clean Air Act's New Source Review (NSR) program. Pursuant to this program, facilities are required to install modern pollution controls when they upgrade or modify their equipment and significantly increase their emissions. NSR requires the country's largest polluting facilities to clean up increased emissions resulting from facility changes. These facilities include oil refineries, chemical plants, power plants, incinerators, iron and steel foundries, paper mills, cement plants, and a broad array of manufacturing facilities.

The first step in deciding whether NSR rules apply to a proposed plant modification is to compare baseline emissions to projected future increases resulting from the planned alterations. Before these amendments were promulgated, baseline emissions were the plant-wide average of the emission levels for the two years closest in time to the start of plant construction unless two other years were demonstrably more representative. However, pursuant to the modified program, companies, excluding electric generating units, can now elect to average the worst two consecutive polluting years out of the past ten, for each pollutant and for each project, regardless of whether they are typical of current plant operations. This allows companies unchecked discretion when determining the need to install air pollution controls. More troubling than the look back provision is the adjustment for all companies of the future emission increase by potential demand. A facility may attribute emission increases to demand growth without triggering a permit review and the installation of modern control technology.

According to Eric V. Schaeffer, former EPA civil enforcement chief and current Director of the Environmental Integrity Project (EIP), these changes to the NSR program will result in no reduction in sulfur dioxide (SO_2) emissions in many states for years to come. EIP commissioned a report prepared by Abt Associates, a consulting firm that the EPA has also used for technical support. This report indicated that although SO_2 emissions have decreased nationally under the existing program, sixteen states have actually experienced increases. The new changes, which are less stringent than the traditional NSR program, could worsen these statistics by further increasing emissions. A number of old and poorly controlled power plants

on the Pennsylvania side of the Delaware River are examples of how New Jersey towns, in close proximity to the river, will be directly effected by the easing of regulations.

A large number of power plants predate the enactment of the federal Clean Air Act (1970). These facilities are "grandfathered" and do not need to meet the same stringent emission control requirements that new plants must meet until, traditionally, they made upgrades to their facilities. Their emissions can be ten or more times greater than newer, more efficient facilities. These unhealthy coal-burning plants enjoy cost advantage over new, alternative energy sources. With more and more states deregulating energy generation, and the resulting market pressures, the older plants are becoming increasingly utilized as a source for increased electric generation. In this new energy environment, older polluting coal plants will likely be the source of choice to utilities in order to meet new competitive models.

In New Jersey, through the efforts of this Board and the Department of Environmental Protection, an agreement with Public Service Electric & Gas was reached whereby old coal-burning facilities will be modernized with state of the art air pollution controls. This will result in a 90% reduction in oxides of nitrogen (NO_x) and a 95% reduction in SO_2 emissions from all three of PSE&G's coal fired units. Similar plants that are not upgraded can have 10 to 20 times higher emissions of these pollutants. If high sulfur coal is burned in these older plants without controls, the SO_2 emissions can be as much as 40 times greater.

Scientific research has established a link between power plant air pollutant emissions and human health impacts, including exacerbation of symptoms for those with asthma, increased risk of heart attacks for those with heart disease, causation of lung cancer and premature death. In New Jersey, it is presently estimated that annual deaths from fine particulate air contamination are approximately 1000. Various health studies have been generated regarding particulates, $NO_{x,}$ and carbon monoxide emissions. In Massachusetts for example, a study done for the Clean Air Task Force estimated that out of 254 premature deaths per year from fine particulates in New England, approximately 181 of those deaths could have been avoided if power plants install new emission controls. In New Jersey, as well as other Mid-Atlantic and New England States, this is extremely distressing since the prevailing wind patterns from the Midwest directly affect our region. Other studies, such as those conducted by the Harvard School of Public Health and the American Cancer Society, indicate exposure to fine particle pollution is a link to heart disease, lung cancer, respiratory ailments including asthma, premature death, increased hospital admissions and work loss days. Fine particles are formed when SO_2 and NO_x react with ammonia to form tiny particles, which interfere with the lungs' ability to absorb oxygen. In 2001, power plants were responsible for about two-thirds of SO_2 and twenty-five percent of NO_x emissions in the nation.

Although there is some support in some coal producing states for the new NSR rule changes, with all the studies supporting the negative impact on individual's health, there should also be consideration of the adverse effects on other industries and the economy in general. The diseases and illness that "dirty "energy produces, effects medical insurance, healthcare costs work loss days, and productivity.

New Jersey, the most densely populated state in the nation, has been fighting to clean its air for decades. This Board has been in the forefront of combating this problem. Through various energy conservation and clean air initiatives, the Board has awarded millions of dollars in grants for the development and implementation of clean energy alternatives. As part of the February 2003 auction for electricity, the Board has requested that 200 megawatts, representing the power needs for 150,000 costumers, come from "green power." The easing of the NSR regulations will adversely affect the efforts of New Jersey to clean our air.

After careful review, the Board FINDS that the action of the USEPA, relaxing NSR standards, is not in the best interest of the State of New Jersey and its citizens. The Board supports the efforts of the New Jersey Department of Environmental Protection to continue to safeguard New Jersey's air and other natural resources. Furthermore, the Board supports the Attorney General in joining the lawsuit with other states opposing the Federal easing of air quality standards[1]. The Board ORDERS the Board Secretary to forward a copy of this Order to the New Jersey State Assembly and Senate, the members of the New Jersey Congressional delegation, and to the Administrator of the USEPA.

DATED: 3/7/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)
_____
JEANNE M. FOX
PRESIDENT

(SIGNED)
_____
FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)
_____
CAROL J. MURPHY
COMMISSIONER

(SIGNED)
_____
CONNIE O. HUGHES
COMMISSIONER

(SIGNED)
_____
JACK ALTER
COMMISSIONER

ATTEST:
(SIGNED)

KRISTI IZZO
SECRETARY

[1] Commissioner Hughes and Commissioner Murphy wished to concur with the Order by stating their support of the state's litigation.